

AO 450 (Rev. 5/85) Judgment in a Civil Case ⊕

UNITED STATES DISTRICT COURT

***** DISTRICT OF NEVADA

MARIO LOPES BENITEZ,

Petitioner,

V.

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 3:08-CV-00543-ECR-VPC

E. K. MCDANIEL, et al.,

Respondents.

___ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

___ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

X **Decision by Court.** This action came to be considered before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that judgment is entered in favor of respondents and against petitioner, dismissing this action with prejudice. IT FURTHER IS ORDERED that a certificate of appealability is GRANTED IN PART as to the Court's decision (in #63, at 13-22): (a) that no basis for tolling or delayed accrual exists in this case after the constructive filing of the federal petition on October 1, 2008; and (b) that Grounds 1, 3(B), 3(C)(2), and 3(E) and parts of Grounds 4(B) and 4(C) do not relate back to the filing of the federal petition. IT IS FURTHER IS ORDERED that a certificate of appealability otherwise is DENIED as to the rejection of all other claims, as applicable, for failure to relate back, lack of exhaustion, or on the merits. See text, *supra*, at 45-46.

June 13, 2012

LANCE S. WILSON

Clerk

/s/ M. Campbell

Deputy Clerk